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and

8 UNITED STATES DISTRICT COURT
9
10 NORTHERN DISTRICT OF CALIFORNIA

11 [REDACTED] and [REDACTED]
12 [REDACTED],
13 Plaintiffs,
14 vs.
15 INTERSEC INTERACTIVE, INC., and
DOES 1-25,
16 Defendants,

Case No. 15-CV-01145-JST

**DECLARATION OF [REDACTED]
[REDACTED] IN SUPPORT OF
PLAINTIFFS' OPPOSITION TO
DEFENDANTS MOTION TO DISMISS
AND/OR TRANSFER VENUE**

Filed: March 11, 2015

17
18 I, [REDACTED] declare as follows:

- 19 1. The following facts are based on my personal knowledge, and, if called to testify, I
20 would affirm them.
- 21 2. I worked for Defendant Intersec as a producer of adult content and occasionally as
22 an erotic performer. I had several stints with Defendant: from 2003 to 2006, 2008 to
23 2009, and, most recently, from about October 2012 through about February 2014.
- 24 3. During my most recent employment with Defendant, I was a resident of the State of

[REDACTED] DECLARATION

1 California in the San Francisco Bay Area.

2 4. During my most recent stint with Defendant, I performed over ninety percent of my
3 work for Defendant in Oakland California.

4 5. During the course of a year, I spent only six to eight weeks during the summer at
5 Intersec's owner, [REDACTED] s, residence in upstate New York.

6 6. During my most recent stint with Defendant, Defendant's only office was in Oakland
7 California.

8 7. I currently reside in Portland Oregon.

9 8. Throughout my most recent employment with Defendant, [REDACTED]'s primary residence,
10 in which he spent nine months out of the year from October to June, is in Emeryville
11 California. I know this because I worked extensively with [REDACTED] during my
12 employment with Defendant, and we had numerous conversations in which [REDACTED]
13 told me either directly or indirectly where he lived.

14 9. General Manager Daniel Intraub's only residence is in San Leandro California. I
15 know this because I worked extensively with Intraub during my employment with
16 Defendant, and we had numerous conversations in which Intraub told me either
17 directly or indirectly where he lived.

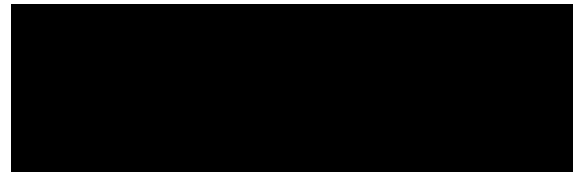
18 10. I have limited means and cannot afford to litigate across the country in New York. I
19 am currently unemployed. Since Defendant classified me as an independent
20 contractor and terminated me, I have been unable to collect unemployment
21 insurance. I am living off of assistance from family and friends. I cannot afford to fly
22 back and forth to New York and pay for meals and lodging several times. The only
23 reason I was able to bring this action at all was because my attorney agreed to take
24 my case on a contingent-fee basis.

- 1 11. When I initially began working for Defendant in 2003, after a brief internship, [REDACTED]
2 hired me and other workers as employees. In about 2005, in the capacity of
3 company manager, after I advised [REDACTED] that he needed to pay its employees
4 worker's compensation insurance, [REDACTED] became angry and instructed me to fire all
5 of the staff to get them off payroll and required the staff to bill Defendant as
6 independent contractors. [REDACTED] told me that this scheme was intended for Defendant
7 to avoid paying worker's compensation insurance and employment taxes.
- 8 12. Throughout my most recent tenure with Defendant, I could not make my own hours,
9 and was required to follow the company schedule. I was required to obtain
10 Defendant's approval prior to taking any vacations or other time off of work. I used
11 Defendant's tools—for example, office space, cameras, computers, software, props,
12 and other office supplies. My employment with Defendant was open-ended, but I
13 could be terminated at will, without prior notice, and without cause. Indeed
14 Defendant terminated me without prior notice. I was paid on an hourly basis rather
15 than on a project basis. Though I worked on an occasional side project, I was not
16 engaged in my own distinct occupation or business; I worked primarily for
17 Defendant. The work I performed for Defendant was part of Defendant's regular
18 business—namely, production of erotic media.
- 19 13. I was included on Defendant's Organizational Chart under my stage name of Cyd
20 Black.
- 21 14. Throughout my employment with Defendant, Defendant instructed me and other staff
22 to submit timesheets with a maximum number of pre-determined hours and days
23 that Defendant would pay us. So, even if I worked more than eight hours in a day, I
24 would simply indicate eight hours on my timesheet for that day, and even if I worked

1 more than five days per week, I would only submit my timesheet for five days.

2 During the summers, I would work between four and six days per week, ten to twelve
3 hours per day. But, since Defendant classified me as an independent contractor,
4 Defendant failed to pay me straight-time and overtime compensation for hours
5 worked over eight per day and forty per week.

6
7 Sworn under penalty of perjury under the laws of the State of California this 16th day of
8 April, 2015.



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 **DECLARATION**